

EXHIBIT B

ENVIRONMENTAL CONSULTING & MANAGEMENT SERVICES, INC.
TERMS AND CONDITIONS

Proposal dated 2/27/20 to (client):

1. **AGREEMENT** – This agreement between Environmental Consulting & Management Services, Inc. (“ECMS”) and (“Client”), consisting of the proposal to which these Terms and Conditions are annexed, constitutes the entire understanding between the parties. The terms of this agreement shall be deemed accepted by Client at the earlier of ECMS’s initiation of Services at the verbal or written direction of Client or Client’s written agreement to be bound by these terms. Any modification or amendment of this contract shall be effective only if in writing and signed by an authorized representative by ECMS. ECMS hereby objects to any terms contained in any prior or subsequent purchase orders, work orders, invoices, acknowledgement forms, requests for proposals or other documents received from the Client that would otherwise have the effect of modifying or abrogating these Standard Terms and Conditions in whole or in part. If any portion of this contract is held invalid or unenforceable, any remaining portion shall continue in full force and effect. Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than Client or ECMS. There shall be no assignment of the rights or obligations contained in this contract by either party and any such assignment shall be null and void.
2. **TERMINATION** – Either party may terminate this Agreement by giving the other party ten (10) days written notice. Termination of this Agreement or the Services for any reason shall not affect or minimize the respective rights, obligations and limitations of liability contained herein. The construction, interpretation and performance of this Agreement and all transactions relating thereto, shall be governed by the laws of the State of New York.
3. **CHANGES** – This Agreement may be modified with the mutual consent of both parties. All changes must be made in writing and must be signed by the Client and ECMS. Notwithstanding any other provisions of the Agreement to the contrary, ECMS shall be entitled to additional compensation for work in the event that ECMS experiences any increases in costs due to changes in the scope of work defined in ECMS’s original proposal, or for additional work requested by client, or changes in the manner or method of performance of work, or due to changes in schedule or circumstances not solely caused by ECMS. ECMS shall be compensated for all such additional work either (1) as previously agreed in writing by the parties; or (2) on a time and materials basis in accordance with ECMS’s then current standard commercial rates.
4. **ACCESS** - Client grants or shall obtain for ECMS and its subcontractors, authority to enter the property upon which ECMS’s Services are to be performed (Site), at Client’s expense. Access shall be readily available.
5. **CLIENT INFORMATION** – Client must provide ECMS with all available information pertinent to the project, including previous reports, and/or any other information necessary to complete the scope of work defined in the proposal. Client understands that ECMS is relying upon the completeness and accuracy of information supplied to it by Client and others in connection with the scope of work without independent verification. Client agrees to advise ECMS of the existence of any hazardous substances, wastes or conditions affecting the Site or the scope of work to be performed hereunder. Client recognizes that investigation, exploration and excavation methods commonly used for remediation and disposal of hazardous and non-hazardous materials involve inherent risk and may cause further problems or contamination at a site through no fault of any person. Client acknowledges that the state of practice is changing and evolving and that ECMS will perform the work in reasonable compliance with the standards in effect at the time of the work. No guarantee of the results is implied or expected from any effort where full characterization of a site is not possible or where uncertainties exist with respect to the scope of the work. ECMS shall not be responsible for any damages or losses resulting from (i) unforeseen conditions or occurrences beyond reasonable control of ECMS or acts of God; (ii) inaccurate or incomplete plans, specifications, drawings or verbal communications provided by client; or (iii) discoveries or events that

occur and could not be reasonably anticipated due to limitations of the scope of the work and where reasonable due diligence was performed in avoiding such events.

6. **STANDARD OF SERVICES AND WARRANTY** – ECMS agrees to perform its services in accordance with generally accepted engineering and construction standards, and scientific practices in effect and utilized by environmental firms in the United States at the time the Services are rendered. The Services may involve the use of tests, calculations, analysis and procedures, which are in a state of change and refinement. Client recognizes that projects involving hazardous waste sites may not perform as anticipated even though the Services are performed in accordance with the required level of care. Given the difficulty in predicting the environmental condition of a site based upon limited sampling and investigative activity, client recognizes that any statements, opinions and conclusions contained in reports and other documents prepared and/or issued by ECMS are only meant to give approximations of the environmental conditions of the Site limited to the particular contaminant(s) and/or environmental issues actually targeted by ECMS's investigation and the portions of the Site actually investigated, sampled or tested by ECMS. Subject to any and all limitation herein, ECMS warrants that, if any of its completed Services fail to conform to the above standard, ECMS will, at its expense and provided ECMS is notified of such defective Services within one year of the completion of the Services, either perform corrective Services of the type originally performed as may be required to correct such defective Services or refund to Client the amount paid to ECMS for the defective Services. Except as provided in this section, ECMS makes no other warranty express or implied, and shall have no other liability to Client for defective Services, whether caused by error, omission, negligence or otherwise.

7. **CONFIDENTIAL AND PROPRIETARY INFORMATION** – ECMS will use its best reasonable efforts to protect confidential and propriety information developed or provided by client during performance of the scope of work. "Confidential and Proprietary Information" means all technical, economic, financial, marketing or other information that has not been published and/or is not otherwise available to members of the public.

8. **WORK PRODUCTS** – "Work Products" consist of all reports, notes, laboratory test data and other information prepared by ECMS for delivery to Client. Client shall have the right to make and retain copies and use all Work Products. Use of the work product shall be limited to the particular Site and/or project for which the Work Product is provided. Client may release the Work Product to third parties at its sole risk and discretion; however, ECMS shall not be liable for any claims or damages resulting from or connected with such release or any third party's use of the Work Product. Client shall indemnify, defend and hold ECMS harmless from any and all such claims or damages resulting from release of the work product to third parties.

9. **INSURANCE COVERAGE** – For purposes of performing the scope of work, ECMS shall maintain Workers Compensation and Employer's Liability insurance in accordance with requirements of the state in which the Services are being performed, Commercial General Liability insurance with a combined single limit of \$1,000,000 per occurrence and \$2,000,000 in the aggregate for bodily injury and property damage, Automobile Liability insurance including owned and hired vehicles with a combined single limit of \$1,000,000 per occurrence for bodily injury and property damage, and Professional Liability (errors and omissions) insurance with a combined single limit of \$1,000,000 per occurrence.

10. **INDEMNITY BY ECMS** – ECMS shall indemnify, defend and hold harmless Client, its officers, directors, agents, employees and affiliated and parent companies against claims, demands, violations and causes of action of third parties (including reasonable attorneys' fees and costs of defense) for personal injury, disease or death, violation of law, and damage of property arising during the performance of Services to the extent caused by the negligence, recklessness or willful misconduct of ECMS or anyone for whom ECMS is responsible. ECMS's aggregate liability under the above indemnity shall not exceed the recoveries under the types and limits of insurance set forth herein.

11. **INDEMNITY BY CLIENT** – Client shall indemnify, defend and hold harmless ECMS, its officers, directors, agents, employees and affiliated and parent companies against claims, demands, violations and

causes of action of third parties (including reasonable attorneys' fees and costs of defense) for personal injury, disease or death, violation of law, and damage of property arising from the negligence, recklessness or willful misconduct of Client or anyone for whom Client is responsible. Client's aggregate liability under the above indemnity shall not exceed the value of the property whereat ECMS is retained hereunder plus any and all available insurance proceeds.

12. **REMEDIES** – Neither party, nor their parent, affiliate or subsidiary companies, nor the officers, directors, agents, employees or contractors of any of the foregoing, shall be liable to the other in any action or claim for incidental, indirect, special, collateral, consequential, exemplary or punitive damages arising out of or related to the Services, including without limitation, loss of profits, loss of opportunity, loss of production, or loss of use. Any protection or limitation against liability for any losses or damages afforded any individual or entity by these General Conditions shall apply whether the action in which recovery of damages is sought is based upon contract, tort (including, to the greatest extent permitted by law the sole, concurrent or other negligence, whether active or passive, and strict liability of any protected individual or entity), statute or otherwise. To the extent permitted by law, any statutory remedies inconsistent with these terms are waived.

13. **ENVIRONMENTAL CONDITIONS** – Client shall provide (or cause the Site owner to provide) ECMS with the identity and location of all subsurface facilities and obstructions on the site. Client agrees to waive any claims against ECMS and to indemnify, defend and hold ECMS harmless from any claims, demands or causes of action for damages to subsurface facilities or obstructions that are not accurately identified or located by Client or others. Client assumes responsibility for air, subsurface and/or ground pollution and environmental impairment from toxic substances or hazardous materials existing at the Site and shall indemnify and defend ECMS from any claims, demands and causes of action of third parties related thereto, except where such claims, demands and causes of action are caused by the sole negligence or willful misconduct of ECMS.

14. **INDEPENDENT CONTRACTOR** – All of ECMS's Services will be performed as an independent contractor.

15. **SUBCONTRACTORS** – ECMS may use one or more subcontractors, as necessary, to complete the Scope of Work. Subcontractors used by ECMS to conduct various field related activities have received all required and applicable Hazardous Materials Workers training and annual updates as required under OSHA. Laboratories subcontracted by ECMS have appropriate State/National certifications required for the analytical services to be provided. The Client may elect to contract directly with a contractor or subcontractor and will be solely and completely responsible for charges and costs incurred by the contractor or subcontractor. ECMS assumes the contractors or subcontractors hired directly by the Client has all required OSHA training and certifications. ECMS reserves the right to refuse to work with any contractor and/or subcontractor hired by the Client, that in ECMS's opinion is not qualified or properly certified to perform the work for which it has been engaged to complete. Client shall indemnify and hold harmless ECMS from any and all claims, demands, damages, and liability resulting from the activities of any contractor, subcontractor, employee, and/or agent the Client engages directly to perform services directly related to the Scope of Work covered by this Agreement.

16. **FORCE MAJEURE** – ECMS shall have no liability for any failure to perform or delay in performance of the Services caused by circumstances beyond its reasonable control, including, but not limited to strikes, riots, wars, floods, fires, explosion, acts of nature, acts of government, labor disturbances, delays in transportation or inability to obtain material or equipment.

17. **LIMITATION OF LIABILITY** – Except as may be otherwise expressly provided herein, Client agrees that ECMS's aggregate liability to Client and others for any and all injuries, claims, demands, losses, expenses or damages, of whatever kind or character, arising out of or in any way related to this Agreement, the Services provided or the Site, shall be the total amount of compensation received by ECMS hereunder. The parties agree that in any dispute over the terms of this Agreement or any issues arising under this Agreement, they will make a good faith effort to resolve the matter without litigation. Pending the outcome

of such dispute resolution, both parties shall take immediate steps to mitigate any damages. Until such time as the dispute is resolved, ECMS reserves the right to suspend its Services and notify the Client of such in a timely manner.

18. OWNERSHIP OF WASTE – In no event shall ECMS take title to or be liable for disposal or remediation costs associated with Pre-Existing Wastes or wastes generated as a result of the scope of work. “Pre-Existing Waste” is any hazardous or non-hazardous wastes, substances or materials existing on the Site prior to the date that the Scope of Work is initiated. Wastes generated as a result of the scope of work may include, but not be limited to, contaminated soils, water, or sediments; used personal protective equipment; investigation derived wastes; oils and other products recovered from the subsurface by remediation systems; and spill containment and control materials. Upon request, ECMS shall assist Client in the proper handling, storage, transportation and/or disposal of Pre-Existing Waste and waste generated as a result of the Scope of Work, in accordance with all applicable federal state and local laws and regulations. Client shall sign all required manifests, disposal contracts and other documentation necessary to allow ECMS to complete the Scope of Work in a timely manner. Client agrees to look solely to the disposal facility and/or transportation concern for any damages arising from improper transportation or disposal of waste.

19. OTHER DIRECT COSTS – Other Direct Costs include subcontracts, materials, shipping charges, special fees, permit fees, special insurance and licenses, and miscellaneous costs. Other Direct Costs will be invoiced at cost plus an eighteen percent (18%) fee. All other internal expenses (reproduction, telephone, facsimile, etc.) will be charged as a percentage of labor cost, or as quoted.

20. INVOICING AND PAYMENT – Invoices will be issued periodically (generally on a monthly basis) itemizing the staff categories, hours worked, rates, and the Other Direct Costs. Copies of supporting documentation will be provided upon Client’s request and at Client’s expense. Payments are due at the address appearing on the invoice upon receipt but no later than fifteen (15) days from an invoice date. ECMS reserves the right to apply a service fee of 1.5% per month to balances beyond 15 days and to collect any fees associated with collection of unpaid balances, including but not limited to reasonable attorneys’ fees and court costs. Unless otherwise expressly agreed, prices quoted are based upon ECMS’ portal to portal times at hourly rates or a fixed fee (a shift consists of eight (8) hours including travel). Mileage from office to job site and to laboratory will be charged at the staff person’s hourly rate and an additional \$0.55 per mile. Unless otherwise provided, sales or other taxes are not included in the price quotations for services and, as required, will be added to payments due ECMS. Client agrees to pay any and all attorneys’ fees, interest, and all other costs incurred in collecting any past due amounts and use binding arbitration to resolve any disputes. Client’s obligations to pay hereunder is in no way dependent upon Client’s ability to obtain financing, payment from third parties, approval of governmental or regulatory agencies, or upon Client’s successful completion of a project. Client shall remain obligated to pay ECMS for the services even where test results or a report produced by ECMS may contain data and/or conclusions unfavorable to Client’s interests.

21. TERMINATION – ECMS may, after giving seven (7) days written notice to Client, suspend Services without liability until the Client has paid in full all amounts due ECMS on account of Services rendered and expenses incurred including interest on past due invoices or terminate Services without liability. If there is a disputed amount on an invoice, Client agrees to pay all undisputed amounts in the fifteen (15) day period.

22. ESTIMATE OF COSTS AND SCHEDULES – ECMS’s estimate of costs and schedule are for Client’s budget and planning assistance only. Cost and schedule estimates are based on ECMS’s best judgment of the requirements known at the time of the proposal and can be influenced favorably or adversely by Client needs and other circumstance such as site conditions and work performed or being performed by others. Overtime, night, weekend and holiday work will be billed at two (2) times the otherwise quoted hourly rate(s). ECMS will endeavor to perform the Services and accomplish the objectives within the estimated costs and schedule, but in no event shall ECMS’s estimate be interpreted as a not-to-exceed or fixed price. Notwithstanding any other terms to the contrary, ECMS shall be entitled to

a change order for additional compensation or additional time to perform its work, in the event that work outside the Services is requested or required to be performed by ECMS, or in the event that the assumptions underlying ECMS's proposal prove to be different from the facts actually encountered by ECMS during the performance of the Services. Meetings involving a senior project manager/principal will be charged at \$150 per hour. A minimum of four (4) hours (portal to portal) shall be charged per meeting or site visit. A cancellation charge of three quarters (3/4) the daily unit rate will be charged for all scheduled shifts if a full shift is not worked.

23. **REPORTING** – Laboratory analyses are billed at a standard Seven Day turnaround time. Two Day turnaround time will be billed at 1.75 times the Seven Day turnaround time rate. One Day will be billed at 2.0 times the Seven Day turnaround time rate.

24. **TERMINATION** – This agreement may be terminated in whole or in part in writing by either party in the event of substantial or material failure by the other party to fulfill its obligations under this agreement through no fault of the terminating party; *provided, however*, that no such termination may be effective unless the other party is given: (i) not less than ten (10) calendar days written notice of intent to terminate, and (ii) an opportunity for consultation with the terminating party prior to termination. In the event that Client requests termination of the work prior to completion of a report, ECMS reserves the right to complete such analyses and records as necessary to place its files in order and, where considered necessary to protect its professional reputation, to complete a report on the work performed to date; a termination charge to cover the cost thereof in an amount not to exceed 20% of all charges incurred up to the date of the stoppage of the work may, at the sole discretion of the ECMS, be made and, if so made, must be paid by Client.

25. **SAVINGS** – Should all or part of this agreement be held invalid or unenforceable, said invalid or unenforceable term shall be deemed severed from this agreement and the remaining terms shall remain unaffected thereby.

Accepted By: Alexander Hago as DIP
(Client Signature)

Date: 2nd MARCH 2020



**Environmental Consulting
and Management Services**

Tel: 845-638-0640
Cell: 914-523-1523

info@ecmsny.com
www.ecmsny.com

Tuesday, September 15, 2020

Mr. Alexander Kaspar
Director, Facility Owner
Cimarron Ranch
75 Cimarron Road
Putnam Valley, New York 10579

Phone: 917-969-1212
Email: valleyview@att.net

Re: Addendum to original March 2, 2020 Agreement for Professional Environmental Consulting with Respect to Violations of 6 NYCRR Part 360 at Cimarron Ranch Facility

Dear Mr. Kaspar,

This agreement between Environmental Consulting and Management Services, Inc. (hereafter "ECMS") and the undersigned Client (hereafter "Client") governs the agreement between the parties involved.

Scope of Work:

ECMS will provide professional advice and review project documents to support litigation and site investigation/remediation. Based on the communications with the NYSDEC and reviewing available project documents ECMS is required to draft a Site Investigation Workplan in accordance with the NYSDEC proposed remediation schedule. The workplan will be subject to approval of the NYSDEC before commencement. As per communications with the NYSDEC additional site inspections and site meetings will be part of establishing a site investigation workplan. Due to the elapsed time between the original NYSDEC violations and the current site conditions at least one additional site meeting will be required prior to investigations to determine where C&D will be removed. Based on the August 18, 2020 site meeting it was determined that vegetation at the site is impeding our ability to determine the areas that require investigation. During our site visit we were able to determine that some areas by the roads onsite will require removal depending on the thickness of the C&D in the road base materials. The winter months will provide a better visual means to identify other potential areas that will require investigation. At that time ECMS and NYSDEC will attempt to identify additional areas of investigation other than the roads onsite. The results of the future site visit will confirm additional areas of investigation.

The areas that are identified and in need of investigation will be outlined in a specific scope of work as part of the ECMS Site Investigation Workplan. When the NYSDEC approves the workplan, ECMS will pursue obtaining the appropriate permits and town approval before commencing work. Once the Site Investigation Workplan is approved by all involved parties and specific costs are established and approved ECMS will schedule the investigations.

The results of the investigation will establish a scope of work to remediate the property in accordance with the NYSDEC proposed remediation schedule. Once investigations are completed a Site Investigation Report will be drafted. As needed the report will identify findings and recommendations for remediation. The NYSDEC will review the Site Investigation Report. Based on ECMS' findings they will either agree with ECMS's recommendations or establish additional requirements.

Depending on the scope of the findings the Site Investigation Report may also outline a workplan for remediation. If the scope of remediation is extensive a separate Remedial Action Workplan will be drafted for NYSDEC approval. ECMS will seek additional workplan and budgetary approvals as required prior to commencement of work.

Fees:

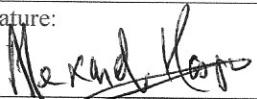
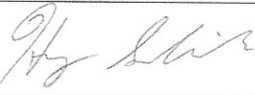
Fees apply to a normal eight (8) hour working day exclusive of travel, Monday – Friday, USA based

1. \$375/hour, minimum charge of one-hour to review documentaion to support case under litigation
2. \$375/hour, minimum charge of four-hours to develop a remedial strategy to support remediation/ litigation
3. \$375/hour, minimum charge of one-hour to collect documentaion/analytical support remediation and litigation
4. \$475/hour, if required minimum three hours litigation- depositions and trial time, including any waiting time
5. \$125/day travel to and from the site or other related meetings plus and an additional \$0.55 per mile.
6. \$150/hour for ECMS field oversight of investigative/ remediation services. Overtime will be billed at \$225/hour
7. ECMS rented equipment, laboratory analytical charges, and subcontractors will be billed at cost.

After information is evaluated and a remedial strategy is approved additional proposals will be made at that time

Terms & Conditions:

- A signed agreement is required prior to commencement of any work; this page may be used.
- A retainer fee maybe required in advance; the fee will be adjusted in accordance with the work performed
- Fees/deposits for laboratory and other subcontracted work may be required in advance
- ECMS maintains insurance coverage as required. Certificates of insurance available on request. Additional insurance requested will be billed at the client's expense.

Client Signature: 	 Harry Sudwischer, ECMS
Date: 15 SEPTEMBER 2020	Date: September 15, 2020

Should you have any questions or require additional information please do not hesitate to contact me. If the above is acceptable, please agree to the additional terms and conditions below and return by email.

Sincerely,



Harry Sudwischer,
Director of Environmental and Spills
Phone: (203) 241-1030
Email: harrys@ecmsny.com

23. **TERMINATION** – This agreement may be terminated in whole or in part in writing by either party in the event of substantial or material failure by the other party to fulfill its obligations under this agreement through no fault of the terminating party; *provided, however*, that no such termination may be effective unless the other party is given: (i) not less than ten (10) calendar days written notice of intent to terminate, and (ii) an opportunity for consultation with the terminating party prior to termination. ECMS may, after giving ten (10) days written notice to Client, suspend Services without liability until the Client has paid in full all amounts due to ECMS on account of Services rendered and expenses incurred or terminate Services without liability. If there is a disputed amount on an invoice, Client agrees to pay all undisputed amounts accordingly. In the event that Client requests termination of the work prior to completion of a report, ECMS reserves the right to complete such analyses and records as necessary to place its files in order and, where considered necessary to protect its professional reputation, to complete a report on the work performed to date; a termination charge to cover the cost thereof in an amount not to exceed all charges incurred up to the date of the stoppage of the work may, at the sole discretion of the ECMS, be made and, if so made, must be paid by Client.

24. **SAVINGS** – Should all or part of this agreement be held invalid or unenforceable, said invalid or unenforceable term shall be deemed severed from this agreement and the remaining terms shall remain unaffected thereby.

Accepted By: _____


(Client Signature)

Date: 15 September 2020